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ORGANIZATION OF THE WORK OF THE SESSION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International League for
the Rights and the Liberation of Peoples, a non-governmental
organization in consultative status (category II)

The Secretary-General has received the following communication,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[13 January 1992]

HUMAN RIGHTS IN GUATEMALA

In 1986, the Commission on Human Rights, considering that the establishment of a civilian Christian Democrat Government in Guatemala was a sufficient guarantee of an improvement in the situation of serious and persistent human rights violations and generalized repression, decided to terminate the mandate of the Special Rapporteur and subsequently, in 1987, offered the Guatemalan Government the programme of advisory services in the field of human rights.

At the end of the term of office of the Christian Democrat Government, many international bodies, non-governmental organizations, the Governments of the States members of the European Community and other Governments, recognized, directly or indirectly, that the situation had deteriorated substantially and that it could not improve without fundamental changes in the power structure.

The report submitted in February 1991 (E/CN.4/1991/5 and Add.1), by Mr. C. Tomuschat, the independent Expert appointed by the United Nations to examine the case of Guatemala, also emphasized that there had been no fundamental changes and that one of the greatest obstacles to improving the human rights situation was the absolute power of the army and its merciless control over the population.

Despite this, in the same month of February, because the new civilian Government of Mr. Serrano Elías promised to respect human rights and said that it was willing to seek peace, the Commission again gave the Government the benefit of the doubt.

Now almost one year after "the benefit of the doubt", we can say that a characteristic feature of President Serrano's human rights policy also has been to ignore the repeated pleas of the people of Guatemala. Neither of the two civilian Governments of the past six years has taken effective measures to ensure that its armed and security forces respect the human rights and fundamental freedoms of its citizens, and the situation deteriorated still further in 1991. This policy has made it possible to reinforce the repressive structure set up by the previous military regimes.

As the expert said in paragraph 49 of the above-mentioned report: "The credibility of the new Government as a guarantor of human rights and social justice will be assessed in particular by its performance in combating (...) politically motivated disappearances and murders. To this end, the new Government will have to establish its firm authority over the armed forces (...)"

The widespread violation of human rights and the persistent impunity had led the Organization of American States to state, in March 1991, that the situation in Guatemala continued to be serious and to declare that Guatemala was its chief concern because of the current deterioration in the situation demonstrated by the alarming atmosphere of violence that prevailed in the country.

The Human Rights Office of the Archbishopric of Guatemala and the Centre for Human Rights Research, Study and Promotion (CIEPRODH), as well as other Guatemalan organizations attending the forty-seventh session of the United Nations Commission on Human Rights, had requested that the case of Guatemala be transferred to agenda item 12 and that a Special Rapporteur be appointed. These organizations have recently confirmed the figures published

by the Guatemalan Human Rights Commission in December 1991: 744 extrajudicial executions, at least 82 enforced or involuntary disappearances, 535 death threats, 259 assassination attempts, 90 cases of torture and 42 indiscriminate bomb attacks on the civilian population in areas of armed conflict. In their respective statements, they emphasized that the figures provided represented only a part of what was actually taking place in the country, because the direct victims of the attacks and their relatives refrained from lodging complaints for fear of reprisals.

The process of seeking peace by political means has now reached the stage where the Government, the Guatemalan Army and the National Revolutionary United Front (URNG) are directly negotiating upon an eleven-point agenda established by the Mexico Agreement in April 1991. Since this process began, some international bodies and Governments have preferred not to express their concerns about human rights in order not to hinder the process which, up to the signing of the Querétaro Agreement in July 1991, had been making positive and encouraging progress.

The Querétaro Agreement expressed to some extent all the demands and claims of the political parties, the churches, the grassroots and trade union movements, the academic sector, the corporations and small entrepreneurs, which, in the course of 1990, had been involved in the dialogue with the URNG.

In this Agreement on the subject of "democratization", the Government, the Army and the URNG agreed, inter alia, "that the strengthening of functional and participatory democracy requires:

- (a) The pre-eminence of civilian society;
- (b) The development of democratic institutional life;
- (c) The effective functioning of the rule of law;
- (d) The permanent elimination of political repression, electoral fraud vote-rigging, military disturbances and pressures, and anti-democratic, destabilizing activities;
- (e) Unrestricted respect for human rights;
- (f) The subordination of the role of the armed forces to civilian authority;
- (g) The recognition of and respect for the identity and rights of the indigenous peoples;

(h) Access by all Guatemalans to the benefits of national production and natural resources, and enjoyment thereof, which must be based on principles of social justice;

(i) The Effective resettlement of populations uprooted by the internal armed conflict".

The momentous importance of the above-mentioned concepts, which have been accepted by both parties, and which are aimed at strengthening democracy and achieving national reconciliation, was also fully recognized by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution of August 1991.

However, while the parties are negotiating, there has been an increase in the violations of the human rights of all the sectors that had participated in the peace-seeking dialogue and had, over the years, been demanding respect for human rights; they are now demanding this respect whatever the outcome of the negotiating process.

There is a consensus among the different sectors that are representative of Guatemalan society, that peace in Guatemala cannot be achieved merely by a cease-fire but through the negotiation of specific, viable and verifiable political agreements that will resolve the structural problems that gave rise to the internal armed conflict, and that the possibility of superficial and insignificant agreements, that fail to take into account the root causes of the crisis that besets the Guatemalan people, should be rejected.

Unfortunately, as soon as the topic of human rights was broached in the negotiations, the Government delegation and the Army declared that, as long as the armed conflict continued, there would be violations of human rights, and they characterized the URNG proposals as unconstitutional and unacceptable. No agreement was reached between the parties at the last two meetings. It would appear that the main points of disagreement were over the URNG proposals, which, in fact, reflect specific measures for the immediate respect of human rights, such as those formulated year after year by the international community. The proposals are as follows: dismantling of the structures of military control over the civilian population (especially the Civilian Self-Defence Patrols (PAC) and the secret repression machinery); respect for the standards of international humanitarian law; investigation of the violations of human rights and punishment of the perpetrators so as to combat impunity effectively; and immediate application of the agreement on human rights and verification of conformity therewith, with the participation of international organizations such as the United Nations.

After the last round of negotiations, it was clearly noted that there were sectors of the civilian and military authorities which oppose these agreements, and above all their immediate application in the area of human rights.

Today, more than ever before, we can repeat what we affirmed in our written statement last year, "... that it was a serious error on the part of the international community to abandon the victims of repression ..."
(E/CN.4/1991/NGO/16, para. 16).

Today, more than ever before, the international community should seize this historical opportunity to find far-reaching and durable solutions through negotiation, and should assume its political and moral responsibility by adopting a clear position vis-à-vis the intransigent sectors and by supporting the efforts of the Guatemalans who are seeking peace by political means.

Since the measures applied over the last six years have been ineffective, the International League for the Rights and the Liberation of Peoples feels that the time has come to take the fair and equitable decision to impose proper monitoring by the international human rights bodies of both the human rights situation in Guatemala and compliance with the agreements reached through the negotiating process. It thus requests the Commission on Human Rights to decide to deal with the case of Guatemala under agenda item 12 and to appoint a special rapporteur for that country. Such a decision by the Commission would be endorsed by the international community and would support the negotiating process in a practical way by putting pressure on the parties to reach political agreements on the protection of human rights and fundamental freedoms in Guatemala.

Annex

Agreement on a general agenda, signed at Mexico City
on 26 April 1991

1. Democratization. Human rights.
2. Strengthening of civilian authority and the role of the army in a democratic society.
3. Identity and rights of indigenous peoples.
4. Constitutional reforms and electoral system.
5. Socio-economic aspects.
6. Agrarian situation.
7. Resettlement of populations uprooted by the armed conflict.
8. Bases for bringing URNG into the political life of the country.
9. Arrangements for the final cease-fire.
10. Timetable for the implementation, fulfilment and verification of agreements.
11. Signing of the agreement on a firm and lasting peace, and demobilization.
